

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	ORDER OF DETENTION PENDING VIOLATION HEARING
)	
vs.)	
Luis Alberto Garcia)	Case No. 1:05-cr-060 and 1:09-cr-070
)	
Defendant.)	

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), I conclude that the following facts require the detention of the defendant.

PART I – FINDINGS AND CONCLUSIONS

- ☐ **Alternative A** – The Court finds:
- (1) There is probable cause to believe that defendant has committed an offense listed in 18 U.S.C. § 3142(e)(3), and
 - (2) Defendant has not rebutted the presumption that no condition or combination of conditions will reasonably assure the defendant’s appearance and the safety of the community.
- ☐ **Alternative B** – The Court finds one or more of the following:
- ☐ (1) The Government has proven by preponderance of the evidence that no condition or combination of conditions will reasonably assure defendant’s appearance.
 - ☐ (2) The Government has proven by clear and convincing evidence that no condition or combination of conditions will reasonably ensure the safety of other persons or the community.
 - ☐ (3) The Government has proven by a preponderance of the evidence that there is a serious risk that defendant will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.
- ☒ **Alternative C** – The Court finds one of the following:
- ☒ (1) Defendant does not contest detention at this time.
 - ☐ (2) Defendant is not eligible for release at this time.

PART II – WRITTEN STATEMENT OF REASONS FOR DETENTION

On August 19, 2010, the court received Waivers of Preliminary Hearing and Detention executed by the defendant as well as by defense counsel. The court finds that the defendant, having had an opportunity to consult with counsel, freely and voluntarily, and knowingly and intelligently waived his right to a detention hearing and a preliminary hearing and consented to be detained pending final disposition of this matter. Further, based upon the defendant’s waiver of a preliminary hearing, the court finds that there is probable cause to believe that the defendant may have committed the violations alleged in the petition for revocation of supervised release.

PART III – DIRECTIONS REGARDING DETENTION

Defendant is committed to the custody of the Attorney General or designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver defendant to the United States marshal for the purpose of an appearance in connection with court proceedings.

Date: 08/23/10

/s/ Charles S. Miller, Jr.
United States Magistrate Judge